

that “the matter had been continued several times due to defendant’s health issues.” (ECF # 41). As a preliminary matter, the Court reminds Defendant that the “issuance of a restitution order under this section is mandatory,” and should not be confused with a discretionary “request.” 18 U.S.C. § 2259(b)(4)(A); (ECF # 41). Indeed, as the Defendant’s victim, “Cindy,” is a victim as defined in the Mandatory Restitution for Sex Crimes section of the Violence Against Women Act of 1994, the Defendant is *required* to pay “Cindy” a portion of her losses as a result of the harm she suffered from Defendant’s crimes. In this case, the Government’s Proposed Restitution Order is not untimely because restitution was clearly contemplated at Defendant’s sentencing, as evidenced in the Minutes: “The government shall submit a proposed restitution order.” (ECF # 36). Lastly, the Court did not order restitution at sentencing so as to allow the parties the opportunity to brief the issue for the Court’s consideration. Here, the Government submitted the Proposed Restitution Order, the Defendant responded, and Court concludes that the Order shall be entered in full.

Second, the Defendant asks the Court to deny the Order because the Defendant is “indigent” and that “any further economic sanction would tantamount to cruel and unusual punishment.” (ECF # 41). However, the mandatory restitution statute applicable to the sexual exploitation of children directly forecloses the Defendant’s assertion. Pursuant to 18 U.S.C. § 2259(b)(4)(B)(i), this Court “may not decline to issue an order under this Section because of the economic circumstances of the defendant.” Further, we remind the Defendant that the purpose of mandatory restitution is to serve as a means of punishment and rehabilitation in an attempt to provide those who suffer the consequences of the Defendant’s crime with some means of recouping their personal and financial losses. 26 A.L.R. Fed. 2d 283. Therefore, the intent and

letter of the mandatory restitution statute defeat the Defendant's opposition to the Proposed Restitution Order based on the economic circumstances of the Defendant.

For the foregoing reasons, the Government's Proposed Restitution Order shall be ENTERED.

IT IS SO ORDERED.

DATED: June 21, 2013



DONALD C. NUGENT
United States District Judge